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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. |
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09/502,701 02/11/00 FOX

P F351.12-0001

EXAMINER

PM82/0315

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312 South Third Street
Minneapolis MN 55415-1002

ROWAN, K
ART UNIT

PAPER NUMBER 1

3643
DATE MAILED:

03/15/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.
09/502,701

Applicant(s)
FOX

Examiner
Kurt Rowan

Group Art Unit
3643



☐ Responsive to communication(s) filed on _____.

☐ This action is FINAL.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

☒ Claim(s) 1-23 is/are pending in the application.

Of the above, claim(s) _____ is/are withdrawn from consideration.

☐ Claim(s) _____ is/are allowed.

☒ Claim(s) 1-23 is/are rejected.

☐ Claim(s) _____ is/are objected to.

☐ Claims _____ are subject to restriction or election requirement.

Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been
☐ received.

☐ received in Application No. (Series Code/Serial Number) _____.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____.

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☒ Notice of References Cited, PTO-892

☒ Information Disclosure Statement(s), PTO-1449, Paper No(s). 3

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

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DETAILED ACTION

Drawings

1. This application has been filed with informal drawings which are acceptable for examination purposes only. Formal drawings will be required when the application is allowed.
2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the spacing structure, recesses, sockets, first spacing component, second spacing component, and legs must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Specification

3. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: shells, spacing structure, recesses, first spacing component, second spacing component.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

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(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371© of this title before the invention thereof by the applicant for patent.

5. Claims 1-2, 7-9 are rejected under 35 U.S.C. 102(e) as being anticipated by Thibodeaux.

The patent to Thibodeaux shows an ice fishing storage apparatus having a pair of extendable elongate shells 12, 13, 14 having an interior surface that defines an elongate cavity. The shells are located adjacent to each other. The top portion 5 of the container acts as a spacing structure and secures the extendable elongate shells in a predetermined relation to each other.

6. Claims 10-15, 17-18 are rejected under 35 U.S.C. 102(b) as being anticipated by Wolniak.

The patent to Wolniak shows an ice fishing and fishing storage device. Wolniak shows a pair of elongate shells 30, 30a, each having an interior surface that defines an elongate cavity that ice fishing tackle is capable of being positioned within. Wolniak shows a first spacing component or template 26 having a plurality of interior surfaces that define a plurality of apertures 22 and a second spacing component 21 in Fig. 2. In reference to claim 11, Wolniak shows the ice fishing tackle storage apparatus positioned in a container 10 that has an end wall 12 with an interior surface. The first spacing component is in contact with the interior surface of the wall as shown in Fig. 1. In reference to claim 12, Wolniak shows the second spacing component 21 in contact with the interior surface of the wall 11. Wolniak shows apertures or holes 23 in the bottom wall of the container which also can be considered as sockets which are joined to the elongate shells.

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7. Claims 19, 21, 22-23 are rejected under 35 U.S.C. 102(b) as being anticipated by McEwen.

The patent to McEwen shows an ice fishing tackle storage apparatus having a plurality of elongate shells 16 having an elongate interior cavity, a spacing structure 20, 20 secured to the shells and a plurality of legs 40, 42 attached to the shells. McEwen shows a container 10.

McEwen shows the elongate shells capable of securing ice fishing tackle therein. The spacing structure 20, 20 is effective to maintain two or more of the elongate shells in predetermined relation with each other proximate the spacing structure. The elongate shells are capable of serving as legs that will stably support the apparatus on a surface when the two elongate shells are positioned in contact with the surface as shown in Fig. 8.

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Thibodeaux as applied to claim 1, above, and further in view of Morin.

The patent to Thibodeaux shows an ice fishing tackle storage device as discussed above and show one template which is the top surface. Morin shows an ice fishing tackle storage apparatus having

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a first 14 and second 24 template to hold rod 12. In reference to claim 3, it would have been obvious to employ a second template in Thibodeaux as shown by Morin for the purpose of supporting the fishing rod in two places.

10. Claims 1, 4-6, 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wolniak in view of Thibodeaux.

The patent to Wolniak shows an ice fishing storage device for fishing tackle as discussed above. Wolniak does not show the elongate shells having an adjustable length, but does show tubes of different lengths. Thibodeaux shows adjustable length tubes 12-14. In reference to claims 1, 16, it would have been obvious to provide Wolniak with at least one adjustable length tube as shown by Thibodeaux for the purpose of storing fishing tackle of different lengths in one elongate shell. In reference to claims 4, 5, Wolniak shows a top wall 26 with apertures 22 which also can be considered sockets.

11. Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over McEwen.

The patent to McEwen shows a fishing pole holder and storage container that functions as an ice fishing storage apparatus as discussed above. In reference to claim 20, McEwen does not disclose positioning the ice fishing storage apparatus in a container. However, it would have been obvious to store the elongate shells and the spacing structure in the container when not in use for the purpose of minimizing storage space.

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Conclusion

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The patents to Langtry, Zielinski, Sumiyoshi, Williams, Nichols, Zaffina, Gonzalez, Greenburg, Vasseur, Bogar, Head, Bastian, and Buchanan show other fishing tackle holders and other holders.

13.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **KURT ROWAN** whose telephone number is (703) 308-2321.

The examiner can normally be reached on Monday-Thursday from 6:30 a.m. to 5:00 p.m.

The fax phone number for the organization where this application or proceeding is assigned is (703) 306-4195 or (703) 305-3597.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.



KURT ROWAN

PRIMARY EXAMINER

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March 8, 2001